

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

COLONIAL SURETY COMPANY	:	
	:	ELECTRONICALLY FILED
Plaintiff	:	
	:	
v.	:	DOCKET NO. 05-116 Erie
	:	
FRENCHCREEK TOWNSHIP	:	
NORTHWEST ENGINEERING, INC.	:	
RAYMOND S. WOODARD, ESQ.	:	
	:	
Defendants	:	

SUPPLEMENTAL CERTIFICATION OF LARRY MILLER IN
OPPOSITION TO NORTHWEST ENGINEERING, INC.'S
MOTION TO DISMISS

I, Larry Miller, Esquire, being of full age and aware of the penalties of perjury, certify as follows:

1. I am an attorney-at-law duly authorized to practice in all courts of this Commonwealth and I am counsel for Colonial Surety Company ("Colonial") in this matter.

2. I am knowledgeable of the facts related to this case and I therefore am in a better position to submit this Certification than my client.

3. On September 7, 2005, the United States Department of Agriculture ("USDA") produced the documents reflecting its funding of the Project which are collectively attached hereto as Exhibit "A."

4. These documents reflect federal loans of \$2,280,800 and federal grants of \$2,054,200 for the Project.

5. The Rural Utilities Service ("RUS") Bulletin 1780-13, attachment 6 and 7, required:

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the Project is located.

6. RUS Bulletin 1780-13, General Conditions, similarly provided:

22. CONTRACT SECURITY

22.1 The CONTRACTOR shall within ten (10) days after the receipt of the NOTICE OF INTENT TO AWARD furnish the OWNER with a Performance BOND and a Payment BOND in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the CONTRACTOR of all undertakings, covenants, terms, conditions and agreements of the CONTRACT DOCUMENTS, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the WORK provided by the CONTRACT DOCUMENTS. Such BONDS shall be executed by the CONTRACTOR and a corporate bonding company licensed to transact such business in the state in which the WORK is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these BONDS shall be borne by the CONTRACTOR. If at any time a surety on any such BOND is declared a bankrupt or loses its right to do business in the state in which the WORK is to be performed or is removed from the list of Surety Companies accepted on Federal Bonds,

CONTRACTOR shall within ten (10) days after notice from the OWNER to do so, substitute an acceptable BOND (or BONDS) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such BOND shall be paid by the CONTRACTOR. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable BOND to the OWNER.

7. RUS Bulletin 1780-14, Supplemental General Conditions for Pennsylvania, provided in section 1.3:

Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

8. Colonial was on the Treasury Department's list and was authorized to transact business in Pennsylvania where the Project is located.

I declare under penalty of perjury that the foregoing is true and correct.

DATE: September 9, 2005

By: s/Larry L. Miller
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